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Please reply to New Jersey

February 14, 2022

VIA ECOURTS FILING

Hon. Edward S. Kiel, U.S.M.J.
United States District Court - Newark
50 Walnut Street, Courtroom PO 08
Newark, NJ 07101

RE: **DIIORIO, ANTOINETTE VS. CLARK TOWNSHIP, ET AL.**

Our File No. : 84256 ELH

Docket No. : 2:17-CV-00737-WJM-ESK

Dear Judge Kiel:

This firm represents the defendant individual Clark Police Officers in this case. We are writing this letter on behalf of all parties, pursuant to the Court's November 8, 2021 Order (Doc. 93) requiring the parties to submit a joint letter at least three days before the scheduled February 17, 2022 Status Conference as to the status of discovery and issues the parties would like the court to address.

Counsel for the parties conferred on Friday, February 11, 2022. The parties have completed fact discovery, with the exception of the issues raised by the Plaintiff and more fully set-forth below. Plaintiff has issued three expert reports. Defendants have issued a police expert report, and Plaintiff was examined by defendants' orthopedist, and a report of the IME is forthcoming.

At this time, before proceeding with expert discovery, the parties believe that it would be beneficial to see if this matter can be resolved through mediation. As such, we would request that the court allow the parties to April 15, 2022 to retain a mediator and conduct the mediation.

If mediation fails, Plaintiff has indicated that he wishes to depose Defendants' police expert. Defendants' presently do not wish to depose any of Plaintiff's three experts, but reserve the

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right to do so depending on the outcome of the deposition of Defendant's expert. Defendants also wish the reserve the right to file a motion (either *in limine* or beforehand) to bar one or more of Plaintiff's experts from testifying.

It is Plaintiff's position that fact discovery is complete but for issues involving an ongoing investigation being conducted by the Union County Prosecutor's Office into the Clarke Township Police Department. During the course of fact discovery and investigation, it became apparent that the UCPO "took over" the Clark Township P.D. in July 2020. The parameters of the UCPO's investigation into the Clark PD and the individuals that may be targets of the investigation are unknown. What is known, based on his deposition, is that Defendant Teston is on Administrative Leave as a result of the investigation. No more specifics could be developed during the deposition consistent with confidentiality pertaining to such investigation until same is complete. The information available to the parties is that the UCPO is still in control of the Clark P.D. and continuing with their investigation. Further, it is Plaintiff's counsel's understanding that Defendant Teston is still on Administrative Leave as a result of the ongoing investigation.

This issue was discussed during the parties' rather lengthy phone call on Friday, February 11, 2022, with the defense suggesting potential objection to the use of the results of the investigation and the Plaintiff suggesting that until the investigation and the results become available, issues involving relevancy and admissibility cannot be determined. It is the Plaintiff's position that certain scenarios may lead to a determination of relevancy and admissibility.

The question was posed as to when the UCPO will complete the investigation and information will become available. This remains an open question. Until such time as the investigation is complete, information relating to the investigation will not be available. The Court's guidance with respect to this issue is requested.

At the conclusion of all discovery, Defendants plan to file a motion for summary judgment.

Methfessel & Werbel, Esqs.

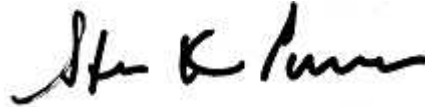
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The parties respectfully request that the Court enter an Order in accordance with these requests.

Respectfully submitted,

METHFESSEL & WERBEL, ESQS.

A handwritten signature in black ink, appearing to read "Steve K. Parness", written in a cursive style.

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ELH:skp

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